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Security Council

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Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea

Note verbale dated 30 November 2006 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Denmark to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006), and has the honour to attach its report pursuant to paragraph 11 of resolution 1718 (2006) on the steps taken by the Government of Denmark to implement paragraph 8 of the above-mentioned resolution (see annex).

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Annex to the note verbale dated 30 November 2006 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Committee

Denmark has the honour of informing the Security Council of the following steps taken with a
view to implementing effectively the provisions of paragraph 8 of United Nations Security Council Resolution (UNSCR) 1718 of 14 October 2006.

Regarding the implementation of the UNSCR 1718 restrictions on the sale of arms to the Democratic People's Republic of Korea (North Korea), the Danish government would like to inform on the following steps taken:

According to Section 6 of the Danish Weapons Act it is prohibited without a specific license from the Minister of Justice to export weapons of any kind and defence related material etc. Section 6 applies to any situation where items are transferred from Denmark to a third country no matter whether the transfer takes place in relation to export, transit, trans-shipment or re-export. Export licenses will not be issued to countries in violation UNSCR 1718.

According to the Section 7 b of the Danish Weapons Act it is likewise prohibited, without a specific license from the Minister of Justice, as a broker to negotiate or arrange transactions that involve the transfer of weapons etc., as defined in Section 6, between countries outside the EU. Furthermore, it is prohibited to buy or sell weapons etc., as defined in Section 6, as part of a transfer between countries outside the EU, or, as the owner of the weapons etc., to arrange such a transfer. Brokering licenses will not be issued for brokering activities involving North Korea.

Furthermore, according to Section 7 a of the Danish Weapons Act, it is prohibited to transport weapons of any kind and defence related material etc. to countries listed in the Government Order on Transportation of Weapons etc. between Third Countries. The list includes all countries that are under a UN, EU, or OSCE arms embargo. A revised Order adding North Korea to the list took effect on 1 November 2006.

Violation of the abovementioned rules is a criminal offence punishable by fine or imprisonment, cf. Danish Weapons Act Section 10 and, in aggravating circumstances, Section 192 (a) of the Danish Criminal Code.

The legal basis for control of **dual-use items** in Denmark is EU Regulation 1334/2000. Through this Regulation and the control list (EU Regulation 394/2006) Denmark controls the export of dual-use items listed by the various export control regimes. Applications for export license concerning products listed in UNSRC 1718, paragraph 8, (a), (ii) will not be approved. Applications for export license concerning other listed products will be considered with utmost vigilance.

According to the EU Regulation a license is required, if exporters have grounds for suspecting that certain exports may be related to WMD (1334/2000, art. 4, paragraph 5) even if the item is not listed in the EU Regulation control list (catch-all). Applications for export licenses concerning these cases will be considered with utmost vigilance.

The EU Regulation is supplemented by national legislation describing the national administration of the Regulation, including penal sanctions in case of violation. This act, Act on the application of certain European Communities Acts on economic relations to third countries (Consolidated Act No 474 of 14. June 2005), was last amended in 2005. Following this amendment **provision of technical assistance** concerning dual-use items is prohibited, if the assistance may be related to WMD. (Technical assistance is defined as any technical support related to repairs, development, manufacture assembly, testing, maintenance or any other technical service, that may take form of as instruction, training, transmission of working knowledge or skills or consulting services).

The maximum penalty for offences related to this act is imprisonment and/or an unlimited fine. In case of aggravating circumstances and when the violation is related to WMD the offence is covered by the Criminal Code.

For a more detailed description of the Danish export control regime regarding weapons and defence related materials reference is made to Denmark's reports to the 1540 Committee (S/AC.44/2004/(02)/30 and S/AC.44/2004/(02)/30/Add.1).

Regarding the restrictions on admission of **persons, entities and bodies** (that will be drawn up on a list by the UN) these restrictions will be implemented in accordance with existing legislation, i.a. the Danish Aliens Act and EC Regulation 539/2001 where North Korea is listed as a country whose nationals must be in possession of visas when crossing the external borders of the EU.

With regard to the **restrictive measures concerning sensitive goods and technology, luxury goods and the freezing of funds and economic resources** Denmark participates actively in the ongoing negotiations within the European Union concerning the steps to be taken by the EU with a view to implementing effectively these provisions of paragraph 8 of resolution 1718.

In its conclusions adopted on 17 October 2006, the Council of the European Union confirmed that the EU would fully implement the provisions of all relevant UNSC Resolutions and notably of Resolution 1718 adopted on 14 October 2006 and of Resolution 1695 adopted on 15 July 2006. The Council stated that it would immediately take the necessary steps to that end.

The EU immediately initiated the preparation of legal instruments implementing the provisions of paragraph 8 of Security Council resolution 1718 (2006). Preparations are under way to adopt without delay a Council Common Position and a Council Regulation. Further information will be provided to the Security Council, once the Common Position and Regulation have been adopted.

Under general European law principles, a Council Regulation is directly applicable in Denmark without the need for domestic implementing legislation. Nevertheless, Denmark will carefully consider whether there is a need to take additional measures nationally once the Council Common Position and the Council Regulation has been adopted.